

Federal legislation on the
assumption of state debts : 1839
to 1843

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Assumption of
State Debt

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The causes that brought about the great state indebtedness that culminated in an amount of some \$250,000,000 in 1843, may be traced back primarily to the Federal Government. In the beginning of our National life under the constitution it soon became apparent that if the Union were to be preserved, there must be a great unity of interests; there must be a free exchange not only of products, but of ideas. And by far the interchange of ideas was most important. There must also be a ready touch between the Federal Government and the States.

All our statesmen of early days hold this view and their solicitude and policy on this point is well expressed in a letter from George Washington to Governor Harrison of Virginia. He said, "I need not remark to you that the flanks and rear of the United States are possessed by other powers, and formidable ones, too; and how necessary it is to apply the cement of interest to bind all parts of the Union together by indissoluble bonds, especially that part of it which lies west of us, with the middle states. For what ties, let me ask, have we upon the people of the Mississippi Valley? How entirely unconnected with them shall we be, and what trouble may we not apprehend if the Spaniards on their right, and Great Britain on their left, instead of throwing stumbling blocks in their way, as they now do, should hold out lures for their trade and alliance? What, when they gain strength, which will

be sooner than most people conceive (from the emigration of foreigners, who will have no particular predilection for us, as well as the removal of our own citizens) will be the consequences of their having formed close connections with either or both of these powers, in a commercial way, it needs not in my opinion, the gift of prophecy to foretell."(1)

Thus we see that the first impetus given to this policy of internal improvement was political rather than industrial. For a number of years previous to 1830, the enthusiasm for National internal improvement was general. A National board of internal improvements was established; National surveys were carried on; and had not certain questions that had to do with the nation as a whole forced themselves upon the public mind, there might have been a National undertaking of this great work. However, a great portion of the people did not feel that the Federal Government was authorized by the constitution to undertake this work, so the policy broke down upon the veto of President Jackson of the Maysville-Road bill.

The States had been greatly encouraged in their belief in this work by the attitude of the National Government. They were led to believe that they were performing a patriotic duty in improving communications between the states so that a unity of feeling and purposes might exist throughout the Union.

And the States were not only encouraged by the arguments and example of the Federal Government but were helped financially. Congress donated all the surplus revenue of the National treasury and a percentage upon the sales of all lands

to form a fund with which the States could carry out their plans of public works. The States thus encouraged, entered upon a policy of internal improvement that in its proportions was absurd to the last degree. The most extravagant plans were carried out. And although the States had taken up the policy of the Federal Government, H. C. Adams thinks that they carried it a great deal farther than the National Government would have done.(2)

Also there were other elements that entered in to encourage the States in this course. The money market was passing through a period of inflation. H. C. Adams says, "Values were radically disturbed, fictitious profits were regarded as real, and the apparent success of modest endeavors led men to enter boldly upon great undertakings; land speculations were especially excessive, for it was believed that the 'vast west' was to come immediately into the market."(3)

Also the success of the Erie Canal had a great influence on the States to lead them on in their headlong course. This undertaking immediately proved a source of profit to New York, and the debt incurred in building it was expunged in the course of ten years operation.

However, these schemes ended in dismal failure leaving the States indebted many millions to European powers for borrowed money. The States faced the proposition of paying this out of regular state taxation. This burden varied of course with the amount of debt of the several states. In Michigan, for instance, the rate of taxation for county and state purposes was but seventy-five cents per capita. The interest demanded upon the public improvement debt would have raised the amount to \$1.35 per capita.

Under such conditions there soon became apparent an undercurrent of sentiment in favor of Federal assumption of state debts. And this was greatly favored by the European powers, which, of course wished better securities for their money.

There had been numerous suggestions in the newspapers and from other sources of foreign intervention in an attempt to cause the Federal Government to assume the debts of the States. And it was due to these suggestions that Benton of Missouri introduced his resolutions into the Senate that started the long struggle over assumption. The most potent of these foreign influences was perhaps the circular sent out late in 1839 by Barring Brothers, bankers of London. In this it was stated that the loan made by the United States Bank for about two years, and the 800,000 pounds on deposit of Pennsylvania and other states' stock at a price which gave ten percent annual interest to the subscribers, showed what rate of interest must be paid to obtain any amount of money on the best American securities and served therefore as a guide to capitalists here for their purchases of state stock.

If the whole scheme of internal improvement was to be carried into effect on the vast scale and with the rapidity lately projected and by the means of foreign capital, a more comprehensive guarantee than that of individual states will be required to raise so large an amount in a short time.

A National pledge would undoubtedly collect capital together from all parts of Europe; but the forced sales of loans made separately by all individual States in reckless competition in

a number of channels rendered the terms more and more onerous.(4)

This circular aroused the enemies of assumption to immediate activity, and on December 27th, 1839, Benton offered his resolutions. The purport of these was that there is nothing in the constitution which can authorize Congress to assume state debts. It is wrong to assume them either directly or indirectly, such assumption would be unconstitutional in that it would be diverting National funds from National purposes and applying them to affairs local in their nature. This would establish a dangerous precedent, and would compel the non-indebted states to pay the debts of the others.

The States were chiefly indebted to foreigners, and any legislative attempt of the United States for their payment would greatly enhance the value of the stock and give undue advantage to foreign capitalists and gamblers. He held that foreign interference in the money power would be more dangerous than the invasion of fleets.(5)

These are in brief the outline of Benton's resolutions, which were submitted to a committee of seven for consideration. And it will perhaps be well to consider the argument with which he sustained them, before entering upon the debate of others. This he set forth quite fully in a speech January 6th, 1840.

He asserts to begin with that he is an enemy of abstract resolutions and the ones he has offered are not such. He says there is a positive danger of an attempt to assume state debts. The bills for distributing the public revenue, all the pro-

positions for dividing the surplus, revenue, all the refusals to abolish unnecessary taxes, all the refusals to go on with the necessary defences of the country, are so many steps taken on the road to assumption.

He believes that the enemies to assumption should give, not receive, the attack. It is not too soon to begin the fight. If they wait for the attack victory will have been organized in the state legislatures. While if the fight is made now the odds are in favor of the opponents of assumption.

Assumption will probably take the course of diverting the land revenue from the current service and this will have a pernicious influence on the passage of other bills. Also it will cause stinted appropriations for essential objects, the sacrifice of other objects altogether, the retention of all our present taxes and a speedy imposition of new ones.

Similar effects were brought about in the long session of 1835 and 1836, when two bills for distribution passed the Senate. In fact a bill to assume state debts in the light of past experience means a veto upon legislative faculties.

Benton contended that the policy of the friends of assumption was to bring it about in a disguised form, as a plan to distribute the public land revenue. He said that the deposit bill was assumption in a disguised form. To illustrate his point he told the story of the ancient Greek who was admitted into the Eleusynian mysteries in a day when according to the law, a year was the time required for entrance. This was done by changing the name of the month at every stage of

the ceremonies. Thus it was brought about through a mere juggling with names, which had not the slightest power to alter facts. In the same way Benton asserted, the changing of the name assumption and calling it state deposits did not alter facts.

But of all the attempts to circumvent the constitution, Benton thought one of the most clumsy was to substitute a land revenue among the States for a distribution of the revenue generally, or for an open assumption of state debts.

There is no authority in the constitution to raise money from any branch of the revenue for distribution among the States, or to distribute that which had been raised for other purposes.

To the argument which Johnson later made that there could be an equal distribution of this revenue among all the States Benton objected that the States could not agree to any rule (6) for distribution, and if one were adopted it could not be applied impartially.

To the generally prevalent idea that the public lands had been a source of revenue to the Federal Government, he brought argument to prove the contrary. He showed that the lands had cost the government \$112,000,000; they had brought into the treasury \$104,000,000. Of this sum \$28,000,000 had been distributed among the States under the deposit act. Deducting this they lacked \$36,000,000 of paying for themselves.

He said there were three great errors to which the American people held. The first was in supposing that the terri-

torial cession of the States were gifts of the soil to the Federal Government. In the second place, they were in error in supposing that the cessions so made had fulfilled their destination in paying off the public debt; and in the third place, in supposing that Congress is free from any constitutional restraint in disposing of these lands.

The error as regards their paying the public debt has been disproved. And as regards the belief that the territorial cessions of the States were gifts of the soil to the Federal Government, it has no foundation. The Federal Government has purchased all the land that it has. A list of the purchase prices for the different cessions is subjoined.

Then Mr. Benton proceeds to elaborate the idea that it would be no more constitutional to distribute the revenue from public land or the money derived from the sale of this land than it would be to distribute the National revenue derived from taxation. This land had been acquired by a money payment. It was agreed that money from the regular taxation could not be distributed; therefore the proceeds of this land which had been bought by the Federal Government could not be distributed.

As regards the point that the lands had been donated to the Federal Government, all it rested on was the fact that the States had given the Federal Government their right to buy the land from the Indians.

Thus Benton reasoned that the States had no more right to the public land or its proceeds, than they had to any oth-

er revenue of the government. And if the principle of distributing the proceeds of the public land were once admitted, it could be carried to all Federal property, forts, the navy and even the Capitol itself.

Then turning to another phase of the question, the evil of the measure itself, which even if there were no constitutional objection, should prevent assumption, he shows how poorly assumption worked in 1790. It meant that debts were assumed in the mass without knowing what they were in the gross, or what they were in detail. Congress was in a state of disorganization and all business was suspended for many days; secession and disunion was openly menaced. There was a compromise of interests, intrigue, buying and selling of votes, etc.

Then the Senator goes on to say that both customs and lands barely pay Federal expenses now, and asks what the results will be if the proceeds of the land is diverted to the States, and the Federal expenses thrown entirely upon the customs. What will be the state of the revenue in 1841 and 1842 when, because of the compromise, the tariff will undergo its last reduction and sink to an ad valorem duty of twenty percent?

Diversion of the land revenue from the Federal treasury will be attended with the immediate revival of high protective tariff, falling unequally on different parts of the Union, and most heavily on the planting, grain growing and provision raising states. Of course such a condition as this would bring about troubles between the sections. (7)

Thus Mr. Benton argued against assumption. The speech throughout is filled with the ego, Mr. Benton affirming that his measure in opposing assumption is wholly his own, and that he assumes entire responsibility for it. He also calls attention in the course of his speech to other measures that he has championed, and to a great extent eulogizes his own methods and ability.

Nevertheless it cannot be denied that Mr. Benton understood the issue thoroughly and dealt with it in a masterly way.

Now let us turn to the argument of John Calhoun, who, perhaps above all others of his time had the ability of reducing an issue to simple propositions and showing clearly their weakness or strength. (8)

He said in part that when he heard repeatedly that these resolutions were uncalled for he wondered above all at the zeal to avoid a direct vote upon them. He thought that this showed that there was a reality at the bottom of them, a deep and agitating question. A direct assumption was not proposed for that would be too absurd, and harmless because absurd. An assumption was proposed in effect by dividing the proceeds of the sales of public lands among the States.

Mr. Calhoun reasoned that without the present indebtedness of the States there would not be the least chance for the adoption of a policy of distributing the proceeds from the land. Then, the question, who is in favor of such a policy.

The indebted States of course! And if the policy is adopted it must be by the votes of the indebted States in order to aid their credit and lighten their burden.

The effect then, that would result from assumption would be, first, to subtract from the treasury a sum equal to the proceeds of the sales of the public lands. Of course the result of such a subtraction would be to cause an equal deficit in the revenue. And at this time, February 5th, 1840, there is not a surplus cent in the treasury. The most rigid economy would have to be practiced to meet the demands during the year.

The receipts on the sales of public land is estimated at \$5,000,000 at least, on the average for the next ten years. If this money is diverted to other purposes there is only one way to supply the deficit, and that is by a corresponding increase of the duties on imports. Then Mr. Calhoun asks the pertinent question, what is the difference regarded as a fiscal transaction, between withdrawing the above amount for distribution and imposing a similar amount of duties on imports to supply the deficiency or leaving the proceeds of the sales of the land in the treasury and imposing the same amount of duties for distribution? Taking it either way, it was in reality a scheme for imposing \$5,000,000 yearly upon the revenue of the country.

In a political point of view the distribution of proceeds from the land would be worse than raising the duties and dis-

tributing the surplus amount. There would be less chance for unfairness by the latter method. But any increase of the duties would be sure to create hostile relations between the states. Such increase would fall most heavily upon the southern states. A distribution of the land proceeds, on the other hand, would cause trouble between the old and the new states. He asserts that heretofore the conduct of the government as regards the public land has been generous, but if the policy of distribution were adopted it would be the reverse. Every section would be resorting to all the means at its disposal to increase its share of the proceeds. (9)

Thus Calhoun logically opposed the policy of assumption. He did not take up the constitutional objection to it but emphasized the weakness of the policy from a fiscal standpoint.

As has been said, the resolutions of Mr. Benton upon which these arguments are based were submitted to a select committee. This committee reported January 30th, 1840. Five were in favor of the resolutions and two opposed them. (10) The two opposing members were William D. Merrick of Maryland and Oliver Hampton Smith of Indiana. Both of these men were members of the Whig party. And both had received good educations in the school of books and the school of experience. Perhaps from a political standpoint Senator Smith was the best trained. Before entering the Senate in 1837 he had been a member of the House of Representatives of Indiana, prosecuting attorney for the third judicial district, a member to the House of Representatives as a Jackson Democrat, and fi-

nally in 1837 elected United States Senator as a Whig, which position he filled until 1843.(11) We have the argument of Mr. Smith in opposing the resolution. For the most part he labored to show the policy of assumption belonged to the Democrats as well as the Whigs. He quotes the following words from President Jackson's inaugural address in 1829. "As long as our government is administered for the good of the people, and is regulated by their will; as long as it secures to us the rights of person and property, liberty of conscience and of the press, it is worth defending." The suggestions that Mr. Smith drew from these words were that the Federal Government is merely the instrument of the States and must subject itself to any policy to bring about the good of the States; the interests of the States must be looked to first and then the Federal Government.

To the argument of Mr. Benton and others that public improvements were not successful because they had not been contributing to pay for themselves, he declared that whether they pay expenses or not they were a great benefit to the people. And it made no difference whether the people payed directly for an improvement through the receipts from its operation or payed indirectly through taxation. He accused the opposition of too sordid and mercenary a view of National improvements. Such a view rightly brought down upon the American people the censure of placing the almighty dollar above every other consideration.

Mr. Smith however, opposed the resolutions mainly upon the ground that the subject they were dealing with was not properly before the Congress. There had been no proposition of assumption in Congress to call them forth. He said that Congress could employ all of its time in passing resolutions of this kind, against contingencies that would probably never come up.

Then he emphasized the idea that such resolutions hurt the credit of the States. It was like a rich parent disavowing the debts of his son. Although the son may be perfectly competent to pay his debts such disavowal by the parent must necessarily hurt his credit. Thus it was with such resolutions as were before the Senate. The great indebtedness of the States was dwelt upon and blazoned forth to the world; but on the other hand, the ability of the States to pay their debts was not equally emphasized. Then Mr. Smith entered upon a discussion showing the resources of the States in a favorable light, and bringing out the fact that the States could pay their debts without the Federal aid. (12).

The fight dragged on in Congress for two more years. In the Senate five resolutions by as many senators were discussed and voted down. (13)

In the House in 1842 Federal assumption found a champion in William Cost Johnson of Maryland. Johnson before entering Congress had served in the House of Representatives of Maryland and had been a delegate to the Constitutional Convention of that state, a man of broad experience and one who professed

to stand with the people.(14)

Estimating the total amount of the state indebtedness at two hundred million dollars, Johnson brought forward a bill proposing that government stock should be issued and distributed to that amount among all the states and territories. The House would not allow the bill to be introduced.

Petitions poured into Congress from New York, New Jersey, Virginia, Indiana, Ohio, Maryland and Pennsylvania, praying the issue of the stock. Johnson secured a reference of the later petitions to a special committee. At first some of them had been referred to the committee on Ways and Means. Both committees made reports, the former for it, the latter against it. The House having heard them, tabled the whole subject. (15) Mr. Johnson, being one of the most ardent supporters of assumption, it will be well to consider his argument. This is found in great detail in a series of five letters that he wrote to his friend Colonel Charles Carroll of Maryland. The first of these is dated December 24th, 1842.

He took the position that a measure of relief to the states is above, beyond and deeper than either of the great parties of the day. Some from superficial reasoning had confused his proposition with unqualified assumption. He proposed no measure of assumption, but rather that the general government should advance its credit for a period of time, in the form of government stock, bearing a low rate of interest to be divided upon an equitable basis among all the States, territories and the District of Columbia. The in-

debted states shall apply their portion to the liquidation of all or part of their debts as they shall agree with their creditors, and that the states not indebted can be credited with the amount on the books of the treasury, and receive their regular interest on the same and their portion of the principal when the capital shall be gradually payed. The faith of the government generally shall be pledged, and the entire public domain, worth ten times the debt, shall be specifically pledged for the payment of the interest and principal of the entire amount.

The bonds were to be in denominations of from \$1000.00 down to \$100.00, not that they should be a circulating currency, but should call forth the money that was locked up.

Mr. Johnson said that it was essential to keep the gold and silver in the country. It was important to arrest its flow to Europe, which went to pay the bonds bearing six percent interest. This could only be done through Congress by advancing the credit of the Federal government. If the flow of but three million dollars a year from the country, ^{were arrested} it might, by rapid circulation, pay one hundred thousand dollars of individual debts in a month, perhaps a week.

Under ^{the} present policy, money raised by direct taxation to pay state bonds was sent to Europe, and not spent among the people as money raised for civil expenses was.

The drain of specie funds at present is twelve million dollars annually, to pay interest abroad, an annual drain

of about one third of the entire specie of the nation. It does not matter from what part of the Nation it was taken, it is a vital fluid the loss of which hurts all parts alike.

The transforming of state debts into government stock would decrease the rate of interest from six per cent to four percent, and probably three percent. This would operate in a saving of from four to six million dollars annually, and even the interest that was payed would be exchanged for the most part, for productions of our own country, not sent abroad.

The amount of interest saved by the plan if set apart as a sinking fund would quickly liquidate the entire capital of the debt.

Mr. Johnson had no doubt that the general government had the power to assume the debts of the States whenever the public interests should require it, or the necessities of the States should strongly demand it. He said, to assert that Congress has no power to extend aid to states almost bankrupt, and to people who are in the midst of ruin and distress is to declare the government not only a failure, but to alienate from it the respect of the States and the cherished affections of the people.

Then turning to the bearing of the constitution on the question, he argued that those who framed the constitution and were therefore most familiar with its intent and meaning, believed in assumption of state debts under certain conditions. George Washington was in favor of it in 1790. Of the fourteen senators that voted for assumption in 1790 nine

had been members of the convention that framed the constitution. Of the twelve that voted against it, but two had been members of that convention.

To the argument that the assumption of 1790 was to pay a war debt, Mr. Johnson answered that railroads and canals supercede the necessity of either a large army or navy, or extensive appropriations for ports and local fortifications. Such improvements develop increased power in time of peace, and such rapid facilities of transporting soldiers in time of war that the nation is made wealthy in time of peace, and almost invulnerable in time of war.

These things secure a nation from apprehension of insult or injury and do most to perpetuate its peace, happiness and prosperity. If a nation should pay the debts of war, should it not pay debts to avoid the possibility of war? (16)

So in brief this is the theory of Mr. Johnson. He avoided striking deeply into the question of constitutional justification of assumption, and seemed to wish to ignore the financial condition of the Federal government.

Let us consider by the side of this rather fanciful plan, some very concrete facts as laid down by Robert Walker, Senator from Mississippi. Senator Walker was afterward secretary of the treasury, 1845 to 1849, and in 1863 was financial agent to Europe. So judging from contemporary estimate, his opinion on financial matters must be considered excellent. (17) He said in substance, speaking in February, 1843: The Federal Government now is in debt twenty-eight million dollars. There will

be a further deficit this year of at least six million dollars, including the sales of public lands. The public lands yield but a million dollars of net revenue yearly. The proposition of those favoring assumption is to add six million dollars a year to the public debt, which would be the sum necessary to pay the interest on two hundred million yearly, at three percent. The lands are now sold at one dollar and twenty-five cents per acre. To make them pay the interest they must be increased in price sixfold or seven dollars and fifty cents per acre. Therefore it readily follows that the plan is for the old States to pay their debts by a burden placed on the new west, where scarcely one dollar of the public money is expended. But the above figures are based on the assumption that as many acres would be sold at seven dollars and fifty cents per acre as at one dollar and twenty-five cents per acre. But Senator Walker thought that such would not be the case, that indeed, the sales of land would be very small at such a price. And we cannot doubt that this is the view of common sense. But if the interest cannot be payed from land revenue, it must be payed by the revenues from duties. This tax would fall on the people of all the States and was repudiation of their debts by the indebted States, in that they asked the non-indebted States to help them pay. With these telling facts and figures Senator Walker opposed Federal assumption of state debts.(18)

After having considered this large field of argument on both sides of the question of assumption, the conclusion

reached must be that assumption was a theory based on no close adherence to facts. The Federal government in 1840 did not have a surplus cent in the treasury, and in 1843 it was twenty-eight million dollars in debt; yet the agitation was still maintained for assumption. But as has been shown, any subtraction from any portion of the Federal revenue would mean that there must be an increased demand on the other portions. The people must ultimately pay any deficit, and if the money was to be raised by the Federal government all States must contribute, those that had wisely avoided indebtedness along with those owing the most.

From a constitutional standpoint it could not be justified.

The result of the Congressional debate was a series of five resolutions opposing assumption. The states thus being thrown on their own resources met their debts by means of loans from citizens.

The states learned a lesson of caution. In the constitutions of most of them at present there are clauses limiting their power to borrow money. It is not probable that such a reign of extravagance will occur again.

1. E. C. Adams, Public Debts, p. 322.
2. H. C. Adams, Public Debts, pp. 326-327.
3. H. C. Adams, Public Debts, p. 328.
4. Niles' Register, LVII, p. 177.
5. Benton, Abridgment of the Debates of
Congress XIV, pp. 17-18.
6. Niles' Register, LXIV, p. 196.
7. Congressional Globe, 26th Cong.,
1st. Sess., App., pp. 85-93.
8. Hunt, John C. Calhoun, pp. 246-247.
9. Congressional Globe, 26th Cong.,
1st. Sess., App., pp. 172-177.
10. Benton, Abridgment of Debates of
Congress, XIV, p. 50.
11. Biographical Congressional
Directory, House Document, 4539,
p. 806.
12. Congressional Globe, 26th Cong.,
1st. Sess., App., pp. 739-742.
13. Mc Master, History of the People
of U.S., VII, pp. 42-43.
14. Biog. Cong. Directory, House Doc., 4539,
p. 624.
15. Mc Master, History of People of
U.S., VII, p. 43.
16. Niles', LXIV, pp. 196-207.
17. Biog. Cong. Directory, House Doc., 4539,
p. 862.
18. Benton, Abridgment of Debates of
Congress, XIV, p. 698.